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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,213	12/11/2003	George S. Pabis	12093/929	7999

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER	
PALABRICA, RICARDO J	

ART UNIT	PAPER NUMBER
3663	

MAIL DATE	DELIVERY MODE
05/07/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/733,213	PABIS ET AL.	
	Examiner	Art Unit	
	Rick Palabrica	3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 March 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *9-21* is/are pending in the application.

4a) Of the above claim(s) *15,18 and 21* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *9-14, 16, 17, 19 and 20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's RCE submission filed on 3/31/08, which directly amended claim 9 and traversed the rejection of claims in the 10/19/07 Office action, has been entered.

Claim Objections

2. Claims 15, 18 and 21 are objected to because they are not shown to have the proper status, i.e. withdrawn from consideration. Appropriate correction is required.

Response to Arguments

3. Applicant traversed applied art, Berglund, on the grounds that: a) "[t]he specification of Berglund specifically refers to **a** slit 20; Berglund does not disclose or suggest a second slit and, thus, does not disclose or suggest a shaft having at least two openings, as presently claimed"; b) "[e]ven if Berglund did disclose two slits, the two portions of the sleeve between the two slits would not divide either of the slits into two portions, as presently claimed." The examiner disagrees.

As to argument a):

First, the purpose of slit 20 is to provide resiliency to guide sleeve 12, as evidenced by the following statement of Berglund:

> *"During mounting, the top nozzle 5 is arranged on the guide thimbles 4 such that the upper ends of the top sleeves 8 are guided towards the seats 17 in the holes 11. Then, the guide sleeve 12 is pressed down through the hole 11, whereby the guide sleeve 12 by the action of the slit 20 is sprung together so as to enable it to be passed into the hole 11 despite the external bead 14." See col. 3, lines 54+.*

The part of specification cited by applicant describes Fig. 4 that depicts a vertical cross section of guide sleeve 12 and showing slit 20. This figure only shows one-half of the guide sleeve. The other half of this sleeve (which is not shown) inherently contains the continuation of the slit 20 depicted in said figure. This slit must inherently cut across the full transverse dimension of the sleeve because otherwise the compression force on the sleeve during the mounting process would not be uniform. Such non-uniformity would result in uneven seating of the sleeve in hole 11 and adversely affect the proper vertical alignment of guide thimble 4 that is critical to the operation of control rods.

Second, as further evidence that slit 20 has to be symmetrical across the sleeve, note the even distribution of slots 60 in the sleeve 58 in Fig. 11 of art of record Patterson et al. These slots perform the same function the slit in Berglund in terms of providing flexibility and facilitating insertion of the sleeve during its mounting process.

As to argument b), applicant is misinterpreting and misrepresenting his own claims. As presently set forth, claim 9 states:

> *"each opening having a first end and a second end and a tendon connecting the first end and the second end of the opening, thereby bridging the first and second ends of the opening and dividing the opening into two portions."*

The underlined phrase, "thereby ..." connotes a condition arising as a direct consequence or result of the immediately preceding structure or step recited. Thus, an applied art inherently meets this limitation if said art meets the preceding structural limitation, "each opening having a first end and a second end and a tendon connecting the first end and the second end of the opening."

In Berglund, an opening (i.e. slit 20) has a first end (i.e., the top end) and a second end (i.e., the bottom end) and a tendon (i.e., part of the wall of sleeve 12) connecting these two ends. Thus, Berglund meets the "thereby ..." limitation. The combination of Field or Delevalle et al. with either Patterson or Berglund also meets this "thereby ..." limitation for a similar reason.

4. Applicant traversed applied art, Feild and Delevallee on the ground that both "fail to disclose or suggest a shaft having at least two openings, as presently claimed." The examiner disagrees.

Feild and Delevallee are not applied individually but rather in combination with secondary references in the rejection of claims. It has been well settled that one cannot show nonobviousness by attacking references individually where the rejections are based on the combination of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800F.2d 1091, 231 USPQ (Fed. Cir. 1986).

5. Applicant traversed secondary applied art, Patterson, on the ground that: "[o]ne of ordinary skill in the art would understand that the portions of the sleeve between the slots are not tendons of the presently claimed invention." The examiner disagrees.

It is teaching in Patterson on the resiliency provided by multiple slots and NOT the tendons that examiner applies in modifying the primary references. Note the following teaching on said slots:

> *"Four slots 60 located in the sleeve 58 at 90.degree intervals, as shown in FIG. 11, make it possible to insert the sleeve into a grid cell as the grid is assembled for brazing. During this assembly it is necessary to slightly deform a 90.degree segment of the lower circular section of the sleeve in order to fit it between the grid straps." Underlining provided. See col. 5, lines 10+.*

Thus, applicant has not shown that the references do not teach what the examiner has stated they teach, nor, has the applicant shown that the examiner's reasoning for and manner of combining the teachings of references is improper or invalid.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 9-13, 16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Berglund (U.S. 5,465,282).

The reasons are the same as those stated in section 2 of the 11/19/07 Office action, as further clarified in section 3 above, which reasons are herein incorporated.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 14, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berglund.

The reasons are the same as those stated in section 3 of the 11/19/07 Office action, as further clarified in section 3 above, which reasons are herein incorporated.

8. Claims 9-14, 16, 17, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Feild, Jr (U.S. 4,699,759) or Delevallee et al. (U.S. 4,751,039) in view of Patterson et al. (U.S. 4,699,759) or Berglund.

The reasons are the same as those stated in section 4 of the 11/19/07 Office action, as further clarified in sections 3, 4 and 5 above, which reasons are herein incorporated.

Conclusion

9. This is a continuation of applicant's earlier application with the same serial number. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rick Palabrica whose telephone number is 571-272-6880. The examiner can normally be reached on 6:00-4:30, Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

May 5, 2008

/Rick Palabrica/
Primary Examiner, Art Unit 3663